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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,670	01/31/2000	Mory Benoit	PHF-99.507	3768

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EXAMINER

AN, SHAWN S

ART UNIT . PAPER NUMBER

2613

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/494,670	BENOIT, MORY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shawn S. An	2613	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 11 and 13-31 is/are rejected.
- 7) ☒ Claim(s) 6, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. As per Applicant's instruction as filed on 8/1/05, claims 22-31 have been newly added.

### *Response to Remarks*

2. Applicant's remarks as filed on 8/01/05 have been fully considered but they are not persuasive.

The Applicants present arguments of which Ahanger's reference fails to disclose:

A) "...the descriptpr being ... configured to represent motions within any one frame of a video sequence"; and

B) a histogram representing motion in a video, wherein the sizes being corresponding values of a dependent variable that defines a histogram for the descriptor.

However, after careful scrutiny of the cited prior art references, the Examiner must respectfully disagree, and maintain the grounds of rejection for the reasons that follow.

The Applicant also challenges Examiner's official notice taken for dependent claim 4. In response, the Examiner has provided a prior art reference to substantiate Examiner's valid official notice. Please refer to the following rejection for dependent claim 4.

In response to argument A), since Ahanger discloses representing motion within any sequence of the frames of the video scene (Video Attributes: Fig. 1), it would have been obvious to one of skill in the art to represent motion within any one frame of a video sequence.

In response to argument B), Ahanger et al does not particularly disclose the (displacement) size being corresponding values of a dependent variable that defines a histogram for the descriptor.

However, Ahanger et al further discloses representations for motion and color histogram for identifying an object (page 5, lines 5-7).

Furthermore, Altunbasak et al teaches calculating motion histograms based on camera operations (Fig. 11, 100; col. 10, lines 15-26).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing a descriptor as taught by Ahanger et al to incorporate the concept as taught by Altunbasak et al so that the (displacement) size(s) are corresponding values of a dependent variable that defines a histogram for the descriptor as an efficient tool to identify such camera operations so that an user can retrieve desired/selected video frames that includes a query video object.

Furthermore, In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Applicant is reminded that Altunbasak's reference is not relied upon to teach Ahanger's teachings. Altunbasak's reference was introduced as a second reference only to fill the void of Ahanger's lacking claim limitation, thereby it would have been obvious to a person of ordinary skill in the relevant art employing a descriptor as taught by Ahanger et al to incorporate the concept as taught by Altunbasak et al so that the (displacement) size(s) are corresponding values of a dependent variable that defines a histogram for the descriptor as an efficient tool to identify such camera operations so that an user can retrieve desired/selected video frames that includes a query video object (motivation). As a secondary reference, Altunbasak does not have to teach or suggest a descriptor configured ..., histogram based query, and to represent motion within any one frame of a video sequence".

Moreover, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually

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where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 7-8, 10-11, 13-22, and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahanger et al (SPIE Proceedings series, 1995) in view of Altunbasak et al (6,389,168 B2) as previously discussed in the last Office action as filed on 4/28/05.

Note: Newly added independent claim 22 are rejected substantially the same as the base claim 1, since the claim 22 is a broader (shorter) version of the base claim 1. Furthermore, newly added claims 23-31 are rejected as well, since they are duplicates of claims 2, 7-8, 10, 14, 17-19.

5. Claims 2 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahanger et al and Altunbasak et al as applied to claim 1 above, and further in view of Miyatake et al (5,267,034) as previously discussed in the last Office action as filed on 4/28/05.

6. Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahanger et al, Altunbasak et al, and Miyatake et al as applied to claim 2 above, and further in view of Jeannin (5,929,940) as previously discussed in the last Office action as filed on 4/28/05.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahanger et al, Altunbasak et al, Jeannin, and Miyatake et al as applied to claim 3 above, and further in view of Nakaya (6,295,376 B1)

**Regarding claim 4**, the combination of Ahanger et al, Altunbasak et al, Jeannin, and Miyatake et al does not specifically disclose rounding the speed (motion vector) to the closest half-pixel value, and multiply by 2, in order to work with integer values.

However, Nakaya teaches rounding the speed (motion vector) to the closest half-pixel value, and multiply by 2, in order to work with integer values (col. 3, lines 22-40; col. 4, lines 15-53).

Furthermore, the concept of rounding and multiplying by 2 of a value is unquestionably well known through an elementary mathematical textbook(s).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing a descriptor as taught by Ahanger et al to incorporate the concept as taught by Nakaya as an efficient method to work with simple (non-complex) numbers.

#### ***Allowable Subject Matter***

8. Claims 6, 9, and 12 are objected to as being dependent upon a rejected base claim 1, but would be allowable: if any one of claims 6, 9, 12 is rewritten in independent form including all of the limitations of the base claim 1 and any intervening claims.

Dependent claims 6, 9, and 12 recite novel features as discussed in the office action as filed on 12/31/03, wherein the art of records fail to anticipate or make obvious the novel features.

Accordingly, if the amendments are made to the claims listed above, and if rejected claims are canceled, the application would be placed in condition for allowance.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn S. An* whose telephone number is 571-272-7324.

11. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Please note the new fax number.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SHAWN AN**  
**PRIMARY EXAMINER**

10/16/05